

AN ACT

RELATING TO MUNICIPALITIES; AMENDING THE BUSINESS IMPROVEMENT DISTRICT ACT TO INCLUDE BUSINESS OWNERS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-63-2 NMSA 1978 (being Laws 1988, Chapter 32, Section 2) is amended to read:

"3-63-2. PURPOSE OF ACT.--The purpose of the Business Improvement District Act is to:

A. promote and restore the economic vitality of areas within municipalities by allowing the establishment of business improvement districts with the powers to provide for the administration and financing of additional and extended services to businesses within business improvement districts;

B. finance local improvements within those districts; and

C. provide municipalities and entrepreneurs a more flexible and proactive vehicle to collaborate in the revitalization efforts of their downtowns, commercial districts and central business districts."

Section 2. Section 3-63-5 NMSA 1978 (being Laws 1988, Chapter 32, Section 5) is amended to read:

"3-63-5. DISTRICT--AUTHORITY--CREATION.--

A. A district shall assess a business improvement

benefit fee on any real property or business located within the district.

B. A district shall include any real property or business that benefits by the improvements set out in the business improvement district plan and that is located within the district's geographic boundaries.

C. The district benefit fee assessment schedule shall not include:

- (1) governmentally owned real property;
- (2) residential real property; or
- (3) real property owned by a nonprofit

corporation.

D. A district may be created by petition of real property owners or by petition of business owners in a proposed district after notice and public hearing."

Section 3. Section 3-63-6 NMSA 1978 (being Laws 1988, Chapter 32, Section 6) is amended to read:

"3-63-6. CREATION BY PETITION.--

A. Whenever ten or more business owners comprising at least fifty-one percent of the total business owners in the proposed district or whenever five or more real property owners comprising at least fifty-one percent of the total real property owners in the proposed district, exclusive of any real property owned by the United States or the state or any of its political subdivisions, petition the

council in writing to create a district, the council shall refer the petition to a planning group to prepare a plan pursuant to the provisions of the Business Improvement District Act to implement the creation of the district. The plans shall:

- (1) state the purpose for the creation of the district;
- (2) describe in general terms the real property to be included in the district;
- (3) provide an assessment plat of the area to be included in the district showing an estimate of the benefits to such real property and an amount estimated to be assessed against each parcel of real property;
- (4) provide such other information as the council deems necessary for the proper evaluation of the plan;
- (5) in the case of a petition brought by a majority of business owners within a proposed district, describe in general terms both the real property and the businesses included in the district; and
- (6) in the case of a petition brought by a majority of business owners within a proposed district, provide a formula to be used to assess businesses in the district for the business improvement benefit fee to be collected along with the municipal property tax.

B. After the completion of the plan, the planning group shall have the municipal clerk give notice of a hearing on the proposed plan.

C. If after the hearing the planning group recommends to the council the creation of the district as proposed or amended, the council may adopt by ordinance the proposed district requested by petition and as described by the plan."

Section 4. Section 3-63-7 NMSA 1978 (being Laws 1988, Chapter 32, Section 7) is amended to read:

"3-63-7. ORDINANCE CREATING THE DISTRICT.--The ordinance to create a district shall include:

A. a list of improvements to be provided by the district;

B. the amount of benefit estimated to be conferred on each tract or parcel of real property;

C. a description of the real property or businesses to be assessed a business improvement benefit fee;

D. the assessment method to be used to finance the improvements of the district;

E. the amount of the assessment to be imposed on each real property owner; and

F. the terms of members, method of appointment and duties of the management committee for the district."

Section 5. Section 3-63-10 NMSA 1978 (being Laws 1988,

Chapter 32, Section 10) is amended to read:

"3-63-10. NOTICE AND HEARING.--

A. The notice of public hearing required by the Business Improvement District Act shall contain:

(1) the time and place where the planning committee will hold a hearing on the proposed district and improvements;

(2) the estimated cost of improvements;

(3) the boundary of the district; and

(4) the recommended formula or the preliminary estimate of assessment of a business improvement benefit fee against each tract or parcel of real property or business.

B. The notice of the public hearing shall be mailed to the affected real property owners or business owners in the proposed district at least thirty days prior to the date of the hearing. In addition, notice shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality in which the proposed district lies. The last publication shall be at least three days before the date of the hearing.

C. Any citizen, business owner or real property owner affected by the proposed district shall be given opportunity to appear at the public hearing and present his views on the creation of the district as outlined in the

preliminary plan.

D. Upon completion of the hearing, the planning group shall present its recommendation on the creation of the proposed district. If the recommendation is against the creation of the district, the council may not adopt an ordinance creating the district."

Section 6. Section 3-63-11 NMSA 1978 (being Laws 1988, Chapter 32, Section 11) is amended to read:

"3-63-11. MANAGEMENT COMMITTEE--CREATION--DUTIES.--

A. The council, upon adoption of an ordinance creating a district, shall appoint a management committee that shall be responsible for the operation of the district in one of the following manners:

(1) the council shall appoint an existing downtown, community or central business district revitalization nonprofit corporation that operates within the boundaries of the district, to administer and implement the business improvement district plan; or

(2) the council shall appoint a management committee to administer and implement the business improvement district plan from nominees submitted by the owners of businesses and the owners of real property located in the district.

B. The management committee shall prepare and file annually with the council for its review and approval a

budget and progress report for the district.

C. The management committee shall administer all improvements within the district.

D. The management committee shall recommend the annual assessment to be made by the council.

E. The management committee shall file annually with the council a report of the district activities for the preceding fiscal year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expenses as of the end of the fiscal year and the benefits of the district's program to the real property and business owners of the district.

F. The management committee shall be a nonprofit corporation created pursuant to the Nonprofit Corporation Act."

Section 7. Section 3-63-13 NMSA 1978 (being Laws 1988, Chapter 32, Section 13) is amended to read:

"3-63-13. ANNUAL ASSESSMENT--SPECIAL ACCOUNT.--

A. The council, upon recommendation of the management committee, may annually assess a business improvement benefit fee as defined by the ordinance upon all real property owners and business owners, exclusive of any real property owned by the United States or the state or any of its political subdivisions located within the district. The council may make reasonable classifications regarding

real property owners located within the district. The annual assessment may be based on the amount of space used for business purposes, street front footage, building or land square footage or such other factors or combination of factors as shall be deemed reasonable. The annual assessment shall be in addition to any other incorporated municipal-imposed license fees or other taxes, fees or other charges assessed or levied for the general benefit and use of the incorporated municipality.

B. All money received by the municipality from the district assessment shall be held in a special account for the benefit of the district.

C. In the case of a district that was created by a majority of real property owners, the amount owed by a commercial tenant shall be proportional to the square footage of space that the tenant rents but shall not be more than seventy-five percent of the total business improvement benefit fee assessed on the property. The property owner shall pay at least twenty-five percent of the business improvement benefit fee.

D. In the case of a district that was created by a majority of businesses, the business improvement benefit fee shall be collected at the same time that the real property owner's property taxes are collected. Businesses shall be assessed for one hundred percent of the business fee

assessed to the property."

Section 8. REPEAL.--Section 3-63-8 NMSA 1978 (being Laws 1988, Chapter 32, Section 8) is repealed.

Section 9. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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